

(1) The WSSC determines that minority business enterprises are underrepresented in the award of these contracts due to the effects of past discrimination; and

(2) The WSSC determines that such a program is necessary to remedy the effects of past discrimination against minority business enterprises in contracting with the WSSC.

(c) The rules and regulations that establish the program under subsection (b) of this section shall include provisions that:

(1) Recognize the certification of minority business enterprises by the State certification agency designated under § 14-303(b) of the State Finance and Procurement Article;

(2) Recognize any other certification program that in the judgment of the WSSC substantially duplicates the requirements of the State certification agency;

(3) Provide for minority business participation through subcontracting;

(4) Except as provided in paragraph (5) of this subsection, provide for a system of granting a preference of up to the lesser of 5% or \$50,000 to minority business enterprises in evaluating bids and proposals;

(5) (i) Subject to the provisions of subparagraphs (ii), (iii), and (iv) of this paragraph, establish a sheltered market program in which bidding on procurement contracts designated by the WSSC as appropriate is restricted to certified minority business enterprises;

(ii) The sheltered market program under this paragraph may not be utilized until all less restrictive remedies under this subsection and race-neutral remedies such as assistance with bonding requirements, financing, or bidding procedures for small firms have been used and found to be ineffective;

(iii) Upon the bid of at least 3 certified minority business contractors, a contract shall be awarded under this paragraph to the lowest of those bidders; and

(iv) If fewer than 3 certified minority business enterprises bid on a contract under this paragraph, the contract shall be awarded under the general provisions of paragraph (4) of this subsection;

(6) Provide for the graduation of a minority business enterprise from the program if the WSSC determines that the minority business enterprise no longer requires the assistance or benefits offered by the program;

(7) Require the solicitation document accompanying each solicitation to set forth the rules and regulations of the minority business utilization program;

(8) Require the geographic location and the principal place of business of the minority business enterprise to be a consideration for participation in this program. Montgomery County businesses and Prince George's County businesses shall each have a targeted percentage of at least 40% of any contracts;